

REMARKS

The Examiner rejected claims 1, 5-7, 9, 12, 33, 37-38, 40 and 43 under 35 USC 102(e) citing a U.S. patent to Ball et al. (Ball) no. 6,393,107. It is noted that independent claims 1 and 33, as now amended, include the “escalation rules” limitation controlling operations prior to a recipient’s receipt of the message, and that the message transmission is delivered “directly to a recipient via the recipient’s personal message receiving device.” Claims 2-11 and 34-42, respectively dependent from claims 1 and 33, all have these same limitations.

The above illustrates the distinction of claims 1 and 33 as amended from Ball. Ball discloses a sender formulating a message from a number of different modalities where the message includes many different selectable, flexible functions. But, please notice that the message is not delivered to the recipient, it is stored in an “electronic mailbox,” item 104 (IMS), FIG. 1. The sender uses the GUI, 103, to compose the message and send the message only to a storage memory, see col. 3, lines 9-11, col. 4, lines 47-49, col. 6, lines 48-50 in the Ball patent. All these excerpts state, paraphrasing, that the message is stored for later retrieval by the recipient. The flexibility in the Ball system is AFTER the recipient retrieves the stored message. Notice that in FIG. 1 the IMS 104 is connected only to the telephone lines for the recipient to retrieve message. Ball does not deliver the message directly to the recipient, the recipient must act to retrieve the message. In the present application, the recipient is passive, his telephone (or other personal device) rings and the recipient answers it and receives our message.

With respect to the “escalation rules” the Examiner cites Ball col. 7, lines 64-65 as describing such rules. But, that section of Ball is describing a structured message using very flexible content, e-mail, audio, MIME, etc. But, this is the structure that the sender is building into the message, which, when he retrieves the message from his stored “mailbox,” the receiver can then manipulate the various ways and connects structured into the message. But, this is quite distinct from present claims 1 and 33 where the claim language includes that the escalation rules apply “prior to a recipient’s receipt of the message.” So as amended the claims cite escalation rules that apply prior to the recipient’s receipt of the message that clearly distinguishes Ball.

With respect to claims 1, 5, 7, 37, 38, and 43, the Examiner states on page 2, the last line, the Figure 1, label 101 in Ball discloses an interface for receiving a message. However, the GUI 102 and terminal 101 in col. 4, lines 34-38 identifies 102 and 101 as items used only by the sender to compose the message. The message that is retrieved (line 47) when the recipient accesses his electronically stored message via a telephone. Moreover, there is no wavering from this description anywhere else in Ball. The recipient receives the message via the interface for receiving the message only after the recipient actively picks up a phone and dials to request the message.

The added words to claims 1 and 33 include no new matter as such devices are listed at the bottom of page 8 over to page 9 in the original application. Also, please notice that, on page 11, line 11, a “wireless device” is referred to as a “personal digital assistant,” a PDA. Certainly, I believe the Examiner will agree, that telephone, facsimile, pager, or PDA or the mail man delivering to a recipient’s actual physical mailbox are “personal” message devices

where messages are directly delivered to the recipient. Please note that each of these devices is arranged to personally alert the recipient to the message, by ringing the phone, beeping the pager, raising an electronic flag, or raising the flag on a real mailbox. Also, as detailed in the original application the "escalation rules" provide, when conditions of non-receipt are met, that the message is sent via other of the recipient's personal receiving devices.

As now amended and distinguished above, claims 1 and 33 and therefore all their dependent claims, 2-11 from claim 1, and 34-42 from claim 33 are now allowable.

Claims 12 and 43 are system and method claims that mirror each other. These claims were also rejected by the Examiner under 35 USC 102(e) citing Ball. As now amended these claims are dependent from claims 1 and 33, and so are allowable if claims 1 and 33 as now amended are allowed. Thus claims 12-15 and 43-46 are allowable.

On page 5 of the office action the Examiner rejects claims 30-32 and 60-62 under 35 USC 102(e) citing a patent to Brown, no. 4,972,461 (Brown). The Examiner cited col. 4, lines 37-45 and col. 15, lines 62-67. However, present claims 30 and 60 recite "... (the) server is configured to discriminate between individuals and telephone answering machines, and to detect receipt of the message by an individual." Brown, in the citations of the Examiner, only make the comment that his invention can be practiced if a machine answers the telephone call, Brown does not distinguish between the two. So in Brown a message on an answering machine will suffice to deliver the message, while the present invention will distinguish between the two and may use the escalation rules to send another message if a telephone answering machine answers the call.

On page 6, the Examiner rejects claim 2, 16, 19, 34 and 47 under 35 103(a) citing Ball in view of Brown. Claims 16 and 47 are independent apparatus and method claims that mirror each other. Claims 16 and 47 bring in the limitation of stored scheduling criteria that the Examiner does not find in Ball, but does so find in Brown at Fig. 3, item 312. The limitations of claims 17 and 48 have been added to claims 16 and 47, respectively. As now amended claims 16 and 47 include a "blackout" and "window" time periods. The Examiner cited U.S. patent to Rogers, no. 5,946,386 as disclosing the time windows, but no mention was made of the "blackout" periods. Although related, specifying a time window when a message is to be sent is not the same as specifying that a particular modality cannot be used during a particular time. None of the references disclose or suggest "blackouts."

Claims 23 and 53 are mirror apparatus and method claims, that have been amended to depend from claims 16 and 47, respectively. Since claims 16 and 47 distinguish the cited prior art, claims 23 and 53 are also allowable.

Claims 12-15, 23-29, 43-46, and 53-59 have been amended to depend from independent claims 1, 16, 33, and 47 respectively.

As now amended present claims 1-16, 18-47 and 49-62, distinguish the cited prior art and are allowable, and a Notice of Allowance is requested.

Please charge any additional fee occasioned by this paper to our Deposit Account No. 03-1237.

Respectfully submitted,

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PATENTS
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**MARK-UP PAGES FOR THE FEBRUARY 27, 2003, AMENDMENT TO
U.S. PATENT APPLICATION SER. NO. 09/496,170**

The replacement for claim 1 resulted from the following changes:

-- 1.(amended) A messaging system comprising:

- [a]. a message server comprising a plurality of modalities for transmitting messages;
- [b]. an interface for receiving a message and a designation of at least some of the transmission modalities;
- [c.] a memory for storing escalation rules specifying sequential transmission of the message by means of each of the designated modalities upon occurrence of a specified condition prior to a recipient's receipt of the message, and
- [d.] a routing facility, responsive to the escalation rules and to the occurrence of the conditions, for causing the message to be sequentially transmitted by the message server in accordance with the escalation rules directly to a recipient's personal message receiving device. --

-- 33(amended). A method of transmitting messages, the method comprising the steps of:

- [a]. receiving a message and a designation of at least some of a plurality of transmission modalities;
- [b]. storing escalation rules specifying sequential transmission of the message, prior to a recipient's receipt of the message, by means of each of the designated modalities upon occurrence of a specified condition; and
- [c.] causing the message to be sequentially transmitted in accordance with the escalation rules directly to the recipient via the recipient's personal message receiving device. --

-- --12(amended). The system of claim 1 further comprising:

[A messaging system comprising:

- a. a message server comprising a plurality of modalities for transmitting messages;

- b.] an interface for receiving a message comprising a plurality of segments encoded in different formats, and a designation of at least some of the transmission modalities;
- c.] an analysis facility for (i) determining the segment formats, (ii) identifying, from among the designated transmission modalities, the modalities appropriate to the segments, and (iii) composing the segments into messages suitable for transmission by the identified modalities; and
- [d.] wherein the [a] routing facility for causing at least some of the composed messages to be transmitted by the identified modalities.—

--43(amended). The method of claim 33 {A method of messaging, the method comprising the steps of:

- a] wherein the step of. receiving comprises receiving a message of a plurality of segments encoded in different formats, [and a designation of at least some of a plurality of transmission modalities;] and further comprises the steps of:
- [b.] determining the segment formats;
- [c.] identifying, from among the designated transmission modalities, the modalities appropriate to the segments;
- [d.] composing the segments into messages suitable for transmission by the identified modalities; and
- [e.] causing at least some of the composed messages to be transmitted by the identified modalities. --

--30. A messaging system comprising:

- [a.] a message server comprising a plurality of communication modalities for transmitting messages, the modalities including telephony, the message server comprising a telephony server;
- [b.] an interface for receiving a message and a designation of at least one of the communication modalities;
- [c.] a routing facility, responsive to the designation, for causing transmission of the message by means of the designated modalities;

wherein

[d.] the telephony server is configured to discriminate between individuals and telephone-answering devices, and to detect receipt of the message by an individual.--

--16(amended).A messaging system comprising:

[a.] a message server comprising a plurality of modalities for transmitting messages;

[b.] an interface for receiving a message and a designation of at least one of the transmission modalities;

[c.] a memory for storing scheduling criteria governing use of the at least one designated modality; and

[d.] a routing facility, responsive to the scheduling criteria, for causing transmission of the message by means of the at least one designated modality in accordance with the scheduling criteria [therefor] wherein the scheduling criteria include at least one of (a) blackout periods during which the at least one designated modality may not be used and (b) time windows during which the at least one designated modality may be used, the routing facility causing transmission to occur at a time consistent with the scheduling criteria. --

--47(amended) A method of messaging, the method comprising the steps of:

[a.] receiving a message and a designation of at least one of a plurality of transmission modalities;

[b.] storing scheduling criteria governing use of the at least one designated modality; and

[c.] causing transmission of the message by means of the at least one designated modality in accordance with the scheduling criteria [therefor] wherein the scheduling criteria include at least one of (a) blackout periods during which the at least one designated modality may not be used and (b) time windows during which the at least one designated modality may be used, transmission occurring at a time consistent with the scheduling criteria. --

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--18(amended). The system of claim [17] 16 wherein the interface further receives a designation of a recipient for the message and information indicative of a location of the recipient, the system further comprising means for obtaining a time of day at the location of the recipient and determining whether the location time of day is consistent with the scheduling criteria. --

--23(amended). The message system of claim 16

[A messaging system comprising:

a. a message server comprising a plurality of communication modalities for transmitting messages;

b. an interface for receiving] wherein the interface also receives (i) a message inviting a response, (ii) a plurality of recipients, and (iii) for each recipient, a designation of at least one of the communication modalities;

[c. a routing facility] and wherein the routing facility, responsive to the designation, [for causing transmission of] transmits the message by means of the designated modalities, wherein

[d.] the communication modalities are configured to remotely receive the responses from the recipients; and

[e.] the interface is configured to present a tabulated version of the responses. --

--49(amended). The method of claim [48] 47 further comprising the steps of:

a. receiving a designation of a recipient for the message and information indicative of a location of the recipient;

b. obtaining a time of day at the location of the recipient; and

c. determining whether the location time of day is consistent with the scheduling criteria. -

--53. The method of claim 47 [A method of messaging, the method comprising the steps of:

a. providing a plurality of communication modalities;

b] wherein the step of receiving includes (i) a message inviting a response, (ii) a plurality of recipients, [and (iii) for each recipient, a designation of at least one of a plurality of communication modalities;

c. causing transmission of the message by means of the designated modalities;]

[d.] and further comprising the steps of:

causing the communication modalities to remotely receive the responses from the recipients; and

[e.] presenting a tabulated version of the responses. --